

§ 14.502

38 CFR Ch. I (7–1–04 Edition)

City), Vermont; (ADDRESS) 120 Le-Brun, Buffalo, NY 14215.

(22) *Region 22: (JURISDICTION)* Indiana, Kentucky; (ADDRESS) 575 N. Pennsylvania Street, Room 309, Indianapolis, IN 46204.

(23) *Region 23: (JURISDICTION)* North Carolina, Virginia (excluding Fairfax, Arlington, and Alexandria); (ADDRESS) 251 N. Main Street, Winston-Salem, NC 27155.

[42 FR 41411, Aug. 17, 1977, as amended at 61 FR 7216, Feb. 27, 1996]

§ 14.502 Requests for legal opinions from Central Office.

Requests for formal legal advice, including interpretation of law or regulations, shall be made only by the Secretary, the Deputy Secretary, the Assistant Secretaries, the Deputy Assistant Secretaries, and the administration head or top staff office official having jurisdiction over the particular subject matter, or by a subordinate acting for any such official.

[54 FR 34982, Aug. 23, 1989]

§ 14.503 Requests for legal advice and assistance in other than domestic relations matters.

(a) Requests from administrative officials in the field for legal advice or assistance will be addressed to the appropriate Regional Counsel and will be in writing if requested by the Regional Counsel. Questions regarding insurance activities at St. Paul and Philadelphia should be referred to the Regional Counsel at the respective station. Except as to matters referred to in § 14.504(b), the Regional Counsel's authority to render legal advice and assistance shall extend to the release (unless otherwise instructed by the General Counsel), without prior approval of the General Counsel, of opinions on all legal questions which are either:

(1) Wholly controlled by the interpretation or application of the laws of the State or States in the district office area, or

(2) Covered by Department of Veterans Affairs precedents and opinions of the General Counsel which the Regional Counsel knows to be currently authoritative on the issues involved.

In cases covered by § 14.504(b) and all others not included in paragraph (a)(1) or (2) or paragraph (b) of this section, the Regional Counsel will prepare a tentative opinion (including identification of the benefit sought) and forward it to the General Counsel for review. When it is returned, the Regional Counsel will conform the opinion (if necessary) to the views of the General Counsel, and release it to the requesting official. The Regional Counsel may release any modified opinion as the opinion of the General Counsel.

(b) The Regional Counsel may submit to the General Counsel any legal question, opinion, or question pertinent to legal functions, upon which the views or advice of the General Counsel are desired. This request should set forth the special circumstances, contain a statement of the legal implications involved (including any Department of Veterans Affairs benefits claimed), set forth the facts out of which they arise, and cite any statutes or court decisions readily available, regulations, related opinions of the General Counsel and other matters deemed pertinent, with appropriate discussion. If any administration will be affected, a copy of the reply will be forwarded to that administration head.

[42 FR 41411, Aug. 17, 1977, as amended at 54 FR 34982, Aug. 23, 1989]

§ 14.504 Domestic relations questions, authority and exceptions.

(a) Regional Counsels have the same authority with respect to domestic relations questions as they do with respect to matters covered by § 14.503 except as specifically excluded by the provisions of paragraph (a) of that section.

(b) In the following instances the Regional Counsel, regardless of whether State law is wholly controlling or a Department of Veterans Affairs precedent is available, will prepare a tentative opinion, researched as completely as possible with reasonably available facilities, and forward two copies thereof directly to the General Counsel for review and disposition (as provided in § 14.503 respecting other than domestic relations matters):

Department of Veterans Affairs

§ 14.507

(1) Where it is not clear under applicable State law: (i) Whether the marriage of a veteran's child or the remarriage of a veteran's widow was void without decree of annulment, or (ii) whether an annulment decree was rendered by a court with basic authority to render annulment decrees;

(2) When fraud or collusion by either party appears to have influenced the granting of an annulment decree;

(3) Cases in which there are contesting claims;

(4) Unusual situations, such as those involving proxy marriages, the law of two or more jurisdictions or of a foreign country;

(5) Cases involving difference of opinion between Regional Counsels or between a Regional Counsel and the official who submitted the question involved.

[42 FR 41411, Aug. 17, 1977]

§ 14.505 Submissions.

All submissions will set forth the question of law on which the opinion is desired, together with a complete and accurate summary of relevant facts. Files, correspondence, and other original papers will not be submitted unless pertinent portions thereof cannot practicably be summarized or copies made and attached as exhibits.

[42 FR 41411, Aug. 17, 1977]

§ 14.507 Opinions.

(a) A written legal opinion of the General Counsel involving veterans' benefits under laws administered by the Department of Veterans Affairs shall be conclusive as to all Department officials and employees with respect to the matter at issue, unless there has been a material change in controlling statute or regulation, a superseding written legal opinion by the General Counsel, or the designation on its face as "advisory only" by the General Counsel or the Deputy General Counsel acting as or for the General Counsel. Written legal opinions having conclusive effect under this section and not designated as precedent opinions pursuant to paragraph (b) of this section shall be considered by the Department of Veterans Affairs to be subject to the provisions of 5 U.S.C. 552(a)(2).

Advice, recommendations, or conclusions on matters of Government or Department policy, contained within a written legal opinion, shall not be binding on Department officials and employees merely because of their being contained within a written legal opinion. Written legal opinions will be maintained in the Office of the General Counsel. Written legal opinions involving veterans' benefits under laws administered by the Department of Veterans Affairs, which pertain to a particular benefit matter, in addition to being maintained in the Office of the General Counsel, will be filed in the individual claim folder.

(b) A written legal opinion of the General Counsel involving veterans' benefits under laws administered by the Department of Veterans Affairs which, in the judgment of the General Counsel or the Deputy General Counsel acting as or for the General Counsel, necessitates regulatory change, interprets a statute or regulation as a matter of first impression, clarifies or modifies a prior opinion, or is otherwise of significance beyond the matter at issue, may be designated a "precedent opinion" for purposes of such benefits. Written legal opinions designated as precedent opinions under this section shall be considered by Department of Veterans Affairs to be subject to the provisions of 5 U.S.C. 552(a)(1). An opinion designated as a precedent opinion is binding on Department officials and employees in subsequent matters involving a legal issue decided in the precedent opinion, unless there has been a material change in a controlling statute or regulation or the opinion has been overruled or modified by a subsequent precedent opinion or judicial decision.

(c) For purposes of this section, the term *written legal opinion of the General Counsel* means a typed or printed memorandum or letter signed by the General Counsel or by the Deputy General Counsel acting as or for the General Counsel, addressed to an official or officials of the Department of Veterans Affairs stating a conclusion on a legal